
Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Birach Broadcasting Corporation)	File No.: EB-FIELDNER-13-00010859
Licensee of AM Station WWCS)	
Owner of Antenna Structures)	NOV No.: V201432400002
ASR # 1222688 and # 1222689)	
)	Facility ID: 5349
Canonsburg, Pennsylvania)	

NOTICE OF VIOLATION

Released: November 14, 2013

By the District Director, Philadelphia Office, Northeast Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)¹ to Birach Broadcasting Corporation (Birach), licensee of AM Station WWCS and owner of antenna structure numbers 1222688 and 1222689 in Canonsburg, Pennsylvania. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violations noted herein.²

2. On September 12, 2013, agents of the Enforcement Bureau's Philadelphia Office inspected antenna structure numbers 1222688 (Tower 1) and 1222689 (Tower 2) and AM Station WWCS in Canonsburg, Pennsylvania and observed the following violations:

- a. 47 C.F.R. § 11.35(a): "EAS Participants must determine the cause of any failure to receive the required tests or activations specified in Sections 11.61(a)(1) and (a)(2). Appropriate entries indicating reasons why any tests were not received must be made in the broadcast station log as specified in Sections 73.1820 and 73.1840 of this chapter for all broadcast streams" At the time of inspection, the agents observed that Station WWCS failed to receive any EAS messages from the Federal Emergency Management Agency's Integrated Public Alert Warning System (IPAWS) during the month of August 2013. Birach Broadcasting failed to make appropriate

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

entries in the WWCS station logs indicating the reasons why these EAS tests were not received.

- b. 47 C.F.R. § 17.49: “The owner of each antenna structure which is registered with the Commission and has been assigned lighting specifications referenced in this part must maintain a record of any observed or otherwise known extinguishment or improper functioning of a structure light and include the following information for each such event: (a) The nature of such extinguishment or improper functioning of a structure light. (b) The date and time the extinguishment or improper operation was observed or otherwise noted. (c) Date and time of FAA notification, if applicable. (d) The date, time, and nature of adjustments, repairs or replacements made.” At the time of inspection, Birch Broadcasting could not produce any logs specifying (1) the date and time that it first became aware of the outage that existed with the obstruction lighting on antenna structure number 1222689, (2) the date and time it notified the FAA of the outage that existed with the obstruction lighting on antenna structure number 1222688, and (3) the time and date it made repairs to the obstruction lighting on antenna structure numbers 1222688 and 1222689.³
- c. 47 C.F.R. § 73.62(a): “Each AM station operating a directional antenna must maintain the relative amplitudes of the antenna currents, as indicated by the antenna monitor, within 5% of the values specified on the instrument of authorization. Directional antenna relative phases must be maintained within 3 degrees of the values specified on the instrument of authorization.” At the time of inspection, the relative phase for Tower 1 exceeded the authorized relative phase value by 9 degrees during the daytime and 10 degrees during the nighttime. In addition, the relative phase for Tower 2 during the nighttime was 9 degrees less than authorized.
- d. 47 C.F.R. § 73.3526(e)(5): “Ownership reports and related materials. A copy of the most recent, complete ownership report filed with the FCC for the station, together with any statements filed with the FCC certifying that the current report is accurate, and together with all related material. These materials shall be retained until a new, complete ownership report is filed with the FCC, at which time a copy of the new report and any related materials shall be placed in the file. The permittee or licensee must retain in the public file either a copy of the contracts listed in such reports in accordance with § 73.3615(a)(4)(i), or an up-to-date list of such contracts. Licensees or permittees who choose to retain a list of contracts must provide a copy of any contracts to requesting parties within 7 days.” At the time of

³ On August 22, 2013, an agent of the Enforcement Bureau’s Philadelphia Office observed that all of the obstruction lighting on antenna structure number 1222688 was extinguished and one of the two obstruction lights on the 2/3 level of antenna structure number 1222689 was extinguished. In a letter dated September 13, 2013, Birch Broadcasting stated that the repairs to the obstruction lights were completed just a few days after the agent’s inspection.

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inspection, there were no ownership reports or related materials provided in the public inspection file.

- e. 47 C.F.R. § 73.3526(e)(12): “For commercial AM and FM broadcast stations, every three months a list of programs that have provided the station’s most significant treatment of community issues during the preceding three month period. The list for each calendar quarter is to be filed by the tenth day of the succeeding calendar quarter (e.g., January 10 for the quarter October-December, April 10 for the quarter January-March, etc.). The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment...” At the time of inspection, there were no Radio Issues/Programs Lists for Station WWCS in the public inspection file.
- f. 47 C.F.R. § 73.1560(a)(1): “Except as provided for in paragraph (d) of this section, the antenna input power of an AM station as determined by the procedures specified in § 73.51 must be maintained as near as is practicable to the authorized antenna input power and may not be less than 90% nor more than 105% of the authorized power.” At the time of inspection, the agents determined that the antenna input power for Station WWCS during the daytime was 2698 Watts or 49.96% of that authorized. Furthermore, the agents determined that the antenna input power for Station WWCS during the nighttime was 722 Watts or 133.7% of that authorized.⁴
- g. 47 C.F.R. § 73.1350(c)(2) “Monitoring equipment must be periodically calibrated so as to provide reliable indications of transmitter operating parameters with a known degree of accuracy. Errors inherent in monitoring equipment and the calibration procedure must be taken into account when adjusting operating parameters to ensure that the limits imposed by the technical rules and the station authorization are not exceeded.” At the time of inspection, the WWCS chief operator was unable to determine the last time the power meter and antenna monitor was last calibrated.

3. As the nation’s emergency warning system, the Emergency Alert System is critical to public safety, and we recognize the vital role that broadcasters play in ensuring its success. The Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its regulatees. We also must investigate violations of other rules that apply to broadcast licensees. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,⁵ and Section 1.89

⁴ The WWCS license (File No. BL-941209AB) specifies an antenna input power of 540 Watts during the nighttime based on an incorrect common point current of 2.39 Amps and an incorrect resistance of 0.50 ohms. The Media Bureau has recommended that Birch Broadcasting file a formal written request with the Office of the Secretary to the attention of Supervisory Engineer Son Nguyen, Federal Communications Commission, Media Bureau, Audio Division, Room 2-A522, Washington, DC 20554 to reissue the license to correct the nighttime current and resistance as specified in the license application.

⁵ 47 U.S.C. § 308(b).

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of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Birach Broadcasting must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁶

4. In accordance with Section 1.16 of the Rules, we direct Birach Broadcasting to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Birach Broadcasting with personal knowledge of the representations provided in Birach Broadcasting's response, verifying the truth and accuracy of the information therein,⁷ and confirming that all of the information requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁸

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
Philadelphia Office
One Oxford Valley Building, Suite 404
2300 East Lincoln Highway
Langhorne, Pennsylvania 19047

6. This Notice shall be sent to Birach Broadcasting Corporation at its address of record.

⁶ 47 C.F.R. § 1.89(c).

⁷ Section 1.16 of the Rules provides that "[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'." 47 C.F.R. § 1.16.

⁸ 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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7. The Privacy Act of 1974⁹ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

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David C. Dombrowski
Philadelphia Office
Northeast Region
Enforcement Bureau

⁹ P.L. 93-579, 5 U.S.C. § 552a(e)(3).